

REMARKS

Claims 1, 10, 38 and 41 have been amended. Claims 15-23, 32, 34, 35 and 40 have been cancelled without prejudice or disclaimer. Claims 1, 10, 38 and 41 are pending and under consideration. No new matter is presented in this Amendment.

REJECTIONS UNDER 35 U.S.C. §103:

Claims 1, 10, 38 and 40-41 are rejected under 35 U.S.C. §103(a) as being unpatentable over Amatucci et al. (U.S. Patent No. 5,705,291) in view of the Japanese publication JP 09-171813.

Applicants respectfully traverse this rejection for at least the following reasons.

Regarding the rejection of independent claim 1, it is noted that claim 1 recites a positive active material composition for a rechargeable lithium battery comprising, amongst other novel features, a positive active material comprising at least one lithiated compound; and an amorphous additive compound uniformly mixed throughout the entire positive active material, said amorphous additive compound consisting of a thermal-absorbent element-included hydroxycarbonate.

Applicants respectfully assert that neither Amatucci nor JP '813, whether taken singly or combined, teach or suggest the novel features of independent claim 1, as amended.

Amatucci discloses a lithium intercalation cell in which the surfaces of lithiated particulates are passivated by coating or encapsulating the particulates in a layer including a composition comprising boron oxide, boric acid, lithium hydroxide, aluminum oxide, lithium aluminate, lithium metaborate, silicon dioxide, lithium silicate, or mixtures thereof.

Amatucci however, makes no reference or suggestion of an amorphous additive compound consisting of a thermal-absorbent element-included hydroxycarbonate, nor does Amatucci teach or suggest that the amorphous additive compound is uniformly mixed throughout the entire positive active material.

Similarly, the JP '813 publication also fails to teach or suggest these novel features recited in amended independent claim 1.

Regarding the rejection of independent claims 10 and 41, it is noted that these claims recite some substantially similar features as claim 1. Thus, the rejection of these claims is also traversed for substantially the same reasons set forth above.

Accordingly, Applicants respectfully assert that the rejection of claims 1, 10 and 41 under 35 U.S.C. §103(a) should be withdrawn because neither Amatucci nor the JP '813 publication, whether taken singly or combined, teach or suggest each feature of independent claims 1, 10 and 41.

Regarding the rejection of dependent claim 38, it is respectfully asserted that the rejection of this claim under 35 U.S.C. § 103(a) should be withdrawn at least because of its dependency from claim 1 and the reasons set forth above, and because the dependent claim includes additional features which are not taught or suggested by the prior art. Therefore, it is respectfully submitted that claim 38 also distinguishes over the prior art.

Regarding the rejection of independent claim 40, it is noted that claim 40 has been cancelled without prejudice or disclaimer. Accordingly, the rejection of claim 40 is moot.

Claims 1, 10, 38 and 40 are rejected under 35 U.S.C. §103(a) as being unpatentable over Amatucci et al. (U.S. Patent No. 5,705,291) in view of Yano et al. (U.S. Patent No. 5,827,494).

Applicants respectfully traverse this rejection for at least the following reason.

As noted above, Amatucci fails to teach or suggest the novel features recited in independent claims 1 and 10.

Yano discloses an electrode active material of batteries using an active material powder which comprises composite particles comprising Ni-hydroxide or solid solutions particles consisting essentially of Ni-hydroxide the surface of which is covered with a mixture of Co-hydroxide and the hydroxide of at least one metal selected from the group consisting of Al, MG (abstract). That is, Yano discloses a hydroxide.

Contrary to Yano, independent claims 1 and 10 recite a positive active material and an additive compound consisting of a thermal-absorbent element-included hydroxycarbonate. As noted above, Yano simply discloses a hydroxide.

Accordingly, Applicants respectfully assert that Yano fails to teach or suggest at least this

novel feature of independent claims 1 and 10, and therefore, fails to cure the deficiencies of Amatucci.

Accordingly, Applicants respectfully assert that the rejection of independent claims 1 and 10 under 35 U.S.C. §103(a) should be withdrawn.

Regarding the rejection of claim 38, it is noted that this claim depends from independent claim 1, and as noted above, neither Amatucci nor Yano, whether taken singly or combined, teach or suggest the novel features of independent claim 1. Therefore, Applicants respectfully assert that the rejection of dependent claim 38 under 35 U.S.C. § 103(a) should be withdrawn at least because of its dependency from claim 1.

Regarding the rejection of independent claim 40, it is noted that claim 40 has been cancelled without prejudice or disclaimer. Accordingly, the rejection of claim 40 is moot.

Claim 1 is rejected under 35 U.S.C. §103(a) as being unpatentable over Amatucci et al. (U.S. Patent 5,705,291) in view of the Korean publication KR 1997-56445.

Applicants respectfully traverse this rejection for at least the following reasons.

As noted above, Amatucci fails to teach or suggest the novel features recited in independent claim 1.

The KR '445 publication discloses a Co-based hydroxide complex material added to an electrochemically active material to increase the capacity of a cell containing the same (abstract), but fails to teach or suggest an amorphous additive compound consisting of a thermal-absorbent element-included hydroxycarbonates.

Therefore, the KR '445 publication fails to cure the deficiencies of Amatucci and therefore, fails to teach or suggest the novel features of independent claim 1.

Accordingly, Applicants respectfully assert that the rejection of independent claim 1 under 35 U.S.C. §103(a) should be withdrawn because neither Amatucci nor the KR '445 publication, whether taken singly or combined teach or suggest each feature of independent claim 1.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the

application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

STEIN, MCEWEN & BUI, LLP

Date: 10/02/08

By: Douglas X. Rodriguez
Douglas X. Rodriguez
Registration No. 47,269

1400 Eye St., N.W.
Suite 300
Washington, D.C. 20005
Telephone: (202) 216-9505
Facsimile: (202) 216-9510